

AMENDED IN SENATE JUNE 27, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2544

Introduced by Assembly Member Gordon

February 24, 2012

An act to amend Sections 4031~~and~~, 4115, *and 4141* of, and to add Sections 4032, 4033, *and 4034*, ~~and 4035~~ to, the Public Resources Code, relating to forestry and fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2544, as amended, Gordon. Forestry and fire protection: land purchases and property use.

Existing law authorizes the Department of Forestry and Fire Protection (department), with the approval of the Department of General Services, to purchase land for lookout sites and for other administrative purposes.

This bill would *delete that authority for the purchase of land for lookout sites or other administrative purposes and would instead* authorize the department, ~~with the approval of the Department of General Services, to purchase land and~~ to enter into agreements, easements, licenses, or permits to acquire real property rights for the purposes of establishing fire protection, fire prevention, fire suppression, demonstration state forests, pest control, forest and range protection, and enhancement activities and related uses. *The bill would require these agreements, easements, licenses, or permits subject to be for no more than fair market value and would require the Department of General Services to sign all applicable certificates of acceptance.*

This bill would authorize the department to lease, for any use, all or any portion of any parcel of real property acquired for forestry and fire protection purposes if the Director of Forestry and Fire Protection finds

that the use would be compatible with the *department's use of the real property for those purposes*. The bill would authorize the department to provide *permits for temporary means of ingress to, and egress from, and movement across* all property under the jurisdiction of the department in order to provide ready access for the purposes of harvesting timber, conducting studies, and passing and placing equipment upon the department's lands, as prescribed.

This bill would further authorize the department, with the consent of the Department of General Services, to lease any real or personal property that the department deems necessary for temporary use for fire station facilities, modular facilities, storage, warehouse, or office purposes when existing departmental facilities are inadequate ~~or when the extension, improvement, or development of fire stations and forestry lands is needed~~. The bill would authorize the department, upon application by the proper authorities, to grant permits and easements for specified purposes and upon those terms as the department may prescribe.

Existing law authorizes the department, in providing communications and necessary powerlines in connection with the prevention and extinguishment of forest fires, with the approval of the Department of General Services, to enter into contracts with the owners of similar facilities for the use of their facilities.

This bill would additionally authorize the department, in providing telecommunications in connection with the prevention and extinguishment of forest fires, with the approval of the Department of General Services, to enter into contracts with the owners of ~~similar facilities for use of their facilities~~ *real property in specified locations for the use of their lands or facilities or to install certain telecommunications facilities*.

Existing law authorizes the department to enter into cooperative agreements with the federal government, for the purpose of maintaining a fire patrol system for the prevention and suppression of forest fires, as specified.

This bill would additionally authorize the department to enter into special use permits with the federal government for these purposes and would include staffing and facilities for the prevention and suppression of forest fires in the definition of a fire patrol system for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4031 of the Public Resources Code is amended to read:

4031. (a) The department may, with the approval of the Department of General Services, ~~purchase land and~~ enter into agreements, easements, licenses, or permits to acquire real property rights for the purposes of establishing fire protection, fire prevention, fire suppression, demonstration state forests, pest control, forest and range protection, and enhancement activities and related uses *in accordance with subdivisions (b) and (c).*

(b) *All agreements, easements, licenses, or permits entered into pursuant to subdivision (a) shall be for no more than fair market value.*

(c) *The Department of General Services shall sign all applicable certificates of acceptance entered into pursuant to subdivision (a) in accordance with Section 27281 of the Government Code.*

(d) *This section does not allow the department to purchase land for lookout sites or other administrative purposes.*

SEC. 2. Section 4032 is added to the Public Resources Code, to read:

4032. (a) The department may lease, for any use, all or any portion of any parcel of real property acquired for forestry and fire protection purposes if the director finds that the use would be compatible with the ~~use of the real property for those purposes~~ *department's use.*

(b) Rent shall be based on the fair market value of the property when used for the purpose for which it is leased.

(c) The lease term shall not exceed ~~10~~ 5 years. All leases *entered into pursuant to this section* shall be subject to the approval of the Department of General Services.

(d) No lease shall be entered into that extends beyond the ~~10-year~~ 5-year period unless the Legislature has reviewed and approved the proposed lease as part of the annual budget process, or the Public Works Board has determined that the proposed lease could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may

1 review and approve the proposed lease after giving at least 20
2 days' written notice to the Chairperson of the Joint Legislative
3 Budget Committee and to the chairperson of the fiscal and
4 appropriate policy committees of its intended action. All actions
5 taken by the board pursuant to this subdivision shall be reported
6 to the Legislature in the next Governor's Budget.

7 SEC. 3. Section 4033 is added to the Public Resources Code,
8 to read:

9 4033. (a) The department may provide *permits for* temporary
10 means of ingress to, ~~and~~ egress from, *and movement across* all
11 property under the jurisdiction of the department in order to provide
12 ready access for the purposes of harvesting timber, conducting
13 studies, and passing and placing equipment upon the department's
14 lands.

15 (b) The department may grant a permit for *a* right-of-way across
16 the department's lands over that route and subject to those
17 conditions and construction and maintenance specifications as the
18 department may determine that will cause minimum alteration to
19 the physical features of the department's lands and minimum
20 interference with the use of the forests by the public.

21 (c) The permittee shall, at his or her own expense, construct and
22 maintain the means of ingress and egress, in accordance with the
23 terms and conditions set forth in the permit, noncompliance with
24 which in any part shall be due cause for revocation of that permit.

25 (d) The department may require a permittee or permittees to
26 allow the use of those temporary means of ingress and egress by
27 any other applicant whose lands are similarly situated.

28 (e) The department may, at its discretion, charge a reasonable
29 fee for access to its lands.

30 (f) (1) A permit granted for passage pursuant to this section is
31 temporary and does not imply consent to a permanent easement,
32 *and the permit shall include language stating this.*

33 (2) The permits are *and shall be* revocable at any time.

34 SEC. 4. Section 4034 is added to the Public Resources Code,
35 to read:

36 4034. The department, with the consent of the Department of
37 General Services, may lease any real or personal property that the
38 department deems necessary for temporary use of fire station
39 facilities, modular facilities, storage, warehouse, or office purposes
40 when existing departmental facilities are inadequate ~~or when the~~

1 ~~extension, improvement, or development of fire stations and~~
2 ~~forestry lands is needed.~~ This section does not apply when the
3 Department of General Services leases land for the use of the
4 department under Section 14669 of the Government Code.

5 ~~SEC. 5. Section 4035 is added to the Public Resources Code,~~
6 ~~to read:~~

7 ~~4035. The department may, upon application by the proper~~
8 ~~authorities, grant permits and easements for the following purposes~~
9 ~~and upon those terms as the department may prescribe:~~

10 ~~(a) To a public agency for public roads.~~

11 ~~(b) To a public agency for utility lines.~~

12 ~~(c) For electric, gas, water, sewer, telephone, telegraph, and~~
13 ~~utility lines, and pipelines and structures incidental thereto, to~~
14 ~~perform a public service or oil or gas pipelines.~~

15 ~~(d) To any oil and gas lessee of the state for pipeline~~
16 ~~right-of-way purposes.~~

17 ~~SEC. 6.~~

18 ~~SEC. 5. Section 4115 of the Public Resources Code is amended~~
19 ~~to read:~~

20 ~~4115. In providing communications, telecommunications, and~~
21 ~~necessary powerlines in connection with the prevention and~~
22 ~~extinguishment of forest fires, the department, with the approval~~
23 ~~of the Department of General Services, may enter into contracts~~
24 ~~with the owners of similar facilities for use of their facilities, such~~
25 ~~as communications facilities, telecommunications facilities, and~~
26 ~~pole lines real property for the use of their lands or facilities in~~
27 ~~locations where no other state tenant exists or to install portable~~
28 ~~or single use remote telecommunications facilities.~~ Provision may
29 be made for indemnification and holding harmless of the owners
30 of those facilities which are so used by reason of ~~such~~ that use.
31 Insurance may be purchased by the Department of General
32 Services, upon request of the department, to protect the state against
33 loss or expense arising out of a contract entered into pursuant to
34 this section.

35 ~~SEC. 6. Section 4141 of the Public Resources Code is amended~~
36 ~~to read:~~

37 ~~4141. (a) The department may, for the prevention and~~
38 ~~suppression of forest fires, enter into cooperative agreements with~~
39 ~~any person, firm, association, or corporation that owns or controls~~
40 ~~any forest, brush, grass, or grain lands, under such terms as the~~

1 department deems advisable, and may renew, revise, or terminate
2 these agreements.

3 (b) The department also may, for the purpose of maintaining
4 a fire patrol system, *including staffing and facilities* for the
5 prevention and suppression of forest fires in any timber, brush,
6 grass, or other flammable vegetation or material, enter into
7 cooperative agreements *and special use permits* with the federal
8 government, under ~~such~~ *those* terms as it deems advisable, and
9 may renew, revise, or terminate these agreements.

10 (c) The expenses incurred under ~~these~~ *the* agreements *or permits*
11 *entered into pursuant to this section* shall be paid from
12 appropriations or funds available for forest fire protection.